FARAD CONTINUATION SHEET.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION No.2133 OF 2006.
IN
WRIT PETITION No. 5363 OF 2005.

Office Notes,Office Memorandum of Coram apperance,Court's Orders & Directions and Registrar's Order.	Court or Judge's Order.

P.N.Patwardhan, i/b Harihar Bhave, Advocate for the Applicant-Petitioner.

CORAM: V.C.DAGA,J.

DATED: 29.09.2006.

P.C.:-

1] Heard the learned Counsel for the Applicant. This matter was heard by me on 28.8.2006,5.9.2006 and 11.9.2006. During the course of hearing Mr.Javedkhan Akhtar, Advocate had appeared on behalf of the non-applicant landlord. During the course of hearing the consensus between the parties was to extend period to vacate suit premises by another four months by way of last chance subject to the applicant bank paying to the Respondent-landlord the enhanced monthly use and occupation

charges quantified at the rate of Rs. 1,00,000/- right from the date of order dated 24.8.2005 to the date of vacation deducting the amount already paid by the applicant-bank. It was further suggested that the bank should file an undertaking accepting enhancement of monthly charges at the rate of Rs. 1,00,000/-.

2] The learned Counsel for the Respondent had agreed to this suggestion. Accordingly, the Applicant was directed to file undertaking. The applicant-bank has accordingly filed an affidavit dated 5th September, 2006 on record.

3] The Advocate appearing for the non applicant is remaining absent past two dates inspite of notice given to him by the Advocate appearing for the bank.

4] Even today when the matter is called out on 2nd occasion nobody is present or appearing on behalf of the non applicant/respondent/landlord. This Court cannot afford to wait for weeks together or months together to seek appearance of the respondent especially when the sword of eviction is hanging over the head of the premier bank of the country who cannot make alternate arrangement for the reasons stated in the civil Application.

5] Inspite of specific notice to the Respondent,nobody is not appearing either to seek adjournment or to oppose the prayer made by the bank. Considering previous suggestions and counter suggestion which is now crystalised in the form of affidavit of the bank dated 5th September, 2006. I am inclined to dispose of the present application with following order.

ORDER.

1] Undertaking given by the Applicant bank is accepted.

2] Applicant bank to vacate the suit premises on or before 31st January, 2007. The period to vacate premises upto 31.1.2007 stands extended.

3] The time to vacate premises shall not be extended beyond 31st January, 2007.

4] Execution proceedings, if any, pending in the Executing Court shall stand stayed till 31st January,2007.

5] As stated in the undertaking the applicant bank shall pay by way of condition of extension of time as

per their undertaking, use and occupation charges and/or compensation in the sum of Rs. 1,00,000/- p.m. (Rupees One Lakh per month)right from 24.8.2005 t;ill 30th September, 2006 deducting the amount already paid by the petitioner bank. This amount or difference thereof to be paid within one week from today by remitting the said amount by banker's draft drawn in the name of landlord-respondent or by crediting it to their bank account maintained by the applicant bank.

6] The applicant bank shall pay regularly on or before 5th of each month Rupees One lakh per month towards occupation charges from 1st October, 2006 till 31st January, 2007 by remitting the amount in advance either by Demand Draft drawn in favour of the Respondent or by crediting it to the account of the landlord-non-applicant.

7] The applicant bank undertakes not to seek any further extension and further undertakes to vacate on it's own the suit premises on or before 31st January, 2007.

8] The assurance given by the learned Counsel for the applicant bank to this Court that the landlord decree holder shall not be required to execute the decree since bank itself has undertaken to vacate the suit premises by 31st January, 2007 is taken on record.

9] The learned Counsel for the Applicant bank is permitted to communicate this order to the landlord through their Advocate.

10] The parties to act on authenticated copy of this order.

11] Civil Application stands disposed of in terms of this order.

12] No order as to costs.

[V.C.DAGA,J.]